
**PRELIMINARY DRAFT
No. 3158**

**PREPARED BY
LEGISLATIVE SERVICES AGENCY
2006 GENERAL ASSEMBLY**

DIGEST

Citations Affected: IC 30-4-3-5.

Synopsis: Trustee powers. Specifies that a trustee may exercise a power that conflicts with an individual interest of the trustee if the beneficiaries do not object to the exercise of the power or if the exercise of the power is specifically authorized by the terms of the trust. (Current law permits the exercise of the power only with court authorization.)

Effective: July 1, 2006.



A BILL FOR AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 30-4-3-5 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2006]: Sec. 5. ~~(Conflict of Interest in Exercise~~
3 ~~of Powers)~~ (a) If the duty of the trustee in the exercise of any power
4 conflicts with ~~his the trustee's~~ individual interest or ~~his the trustee's~~
5 interest as trustee of another trust, the power may be exercised only
6 with under one (1) of the following circumstances:

7 (1) The trustee receives court authorization to exercise the
8 power with notice to interested persons as the court may
9 direct.

10 (2) The trustee gives notice of the proposed action in
11 accordance with IC 30-2-14-16 and:

12 (A) the trustee receives no objections to the proposed
13 action within the period specified in the notice of the
14 proposed action; or

15 (B) a beneficiary objects to the proposed action within the
16 period specified in the notice of the proposed action, but
17 the trustee receives court authorization to exercise the
18 power.

19 (3) The exercise of the power is specifically authorized by the
20 terms of the trust.

21 (b) For the purposes of subsection (a) of this section, the interest of
22 an affiliate of the trustee will be deemed to be the interest of the
23 trustee.

